

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

NO. 7:21-CV-86-FL

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARK A. SAUNDERS and SIBYL A.
SAUNDERS,

Defendants.

ORDER

This matter is before the court on the parties' proposed consent order regarding telephonic motion hearing held January 12, 2022, on defendant Sibyl A. Saunders's expedited motion to reconsider the court's order entered January 7, 2022. (DE 32). That order terminated defendant Sibyl A. Saunders's motion to stay claims against her pursuant to 26 U.S.C. § 6015(e)(1)(B). (See DE 17). At hearing plaintiff appeared through Robert J. Atras, defendant Mark A. Saunders appeared through Erik P. Doerring and Elaine R. Jordan, and defendant Sibyl A. Saunders appeared through Anthony E. Rebollo and Payton D. Hoover.

The court heard arguments January 12, 2022, from all sides. All parties, including plaintiff, agreed defendant Sibyl A. Saunders is entitled to a stay until her pending request for innocent spousal relief has been administratively processed by the Internal Revenue Service and, if necessary, litigated before the United States Tax Court. The issue remained, however, whether discovery and eventual trial could continue against defendant Mark A. Saunders in the interim. Plaintiff expressed concern about dissipation of evidence over the course of the stay, and thus

requested that it be permitted to continue adjudication against defendant Mark A. Saunders. Defendant Mark A. Saunders clarified that no initial disclosures had been served nor had a discovery plan been discussed.

Where joint and several liability is at issue, the court questioned plaintiff's understanding of its entitlement to proceed to judgment against defendant Mark A. Saunders during pendency of the action against defendant Sibyl A. Saunders. Through counsel, defendant Sibyl A. Saunders expressed her apprehension in this respect.

Where some consensus appeared to devolve, at the conclusion of hearing the court directed the parties to file a proposed consent order memorializing the stay in effect as well as reporting requirements for defendant Sibyl A. Saunders regarding her pending request with the Internal Revenue Service. The parties additionally were directed to suggest a discovery plan that would allow written discovery to be served on Defendant Mark A. Saunders during the stay. Without more, no other discovery would be permitted until the resolution of defendant Sibyl A. Saunders's pending request for innocent spousal relief.

After reviewing the parties' proposed order and plan, filed January 19, 2022, the court orders the following:

1. Defendant Sibyl A Saunders's motions for reconsideration, DE 29, and for a stay, DE 17, are GRANTED.
2. Defendant Sibyl A. Saunders is DIRECTED to file a report indicating the status of her request for innocent spousal relief every 90 days, or within five days of receipt of any notifications from the Internal Revenue Service, whichever is sooner.
3. Plaintiff and defendant Mark A. Saunders shall exchange by **March 15, 2022**, the information required by Federal Rule of Civil Procedure 26(a)(1).

4. Plaintiff and defendant Mark A. Saunders shall serve by **April 15, 2022**, initial interrogatories, requests for admission, and requests for production.
5. No party shall serve more than 25 interrogatories, including all discrete subparts, to any other party. Responses are due 30 days after service of those interrogatories.
6. No party shall serve more than 25 requests for admissions to any other party. Responses are due 30 days after service of those requests for admissions.
7. The parties shall conduct no further discovery in this case, other than that specified herein, absent further authorization from the Court.

SO ORDERED, this the 21st day of January, 2022.



LOUISE W. FLANAGAN
United States District Judge